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AUG 06 2004

OFFICE OF PETITIONS

In re Application of
James P. Siepmann
Application No. 10/692,175
Filed: October 22, 2003
Attorney Docket No. LTI.PAU.03

**DECISION GRANTING
PETITION**

This is a decision on the petition filed April 19, 2004, requesting that the above-identified application be accorded a filing date of October 22, 2003.

The petition is **GRANTED**.

The application was deposited on October 22, 2003. However, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" on March 8, 2004 stating that the drawings appear to have been omitted.

In response, the present petition was filed. The petition argues that 6 sheets of drawings were in fact received in the USPTO on filing on October 22, 2003. In support of this assertion, petitioner has supplied a stamped postcard that acknowledges receipt by the USPTO on October 22, 2003, of, *inter alia*, "Drawings (6 sheets)."

MPEP 503 states that, "A postcard receipt which itemizes and properly identifies the papers which are being filed serves a prima facie evidence of receipt in the USPTO." Accordingly, the evidence supports the fact that 6 sheets of drawings were in fact present on filing.

Nevertheless, the Notice of March 25, 2003 was improper for the following reason. This application contained, on filing, at least one method or process claim, which normally does not require a drawing. It is USPTO policy, per MPEP 601.01(f), to treat such an application under the procedure set forth in MPEP 601.01(g). Under that procedure, rather than mailing a Notice of Incomplete Nonprovisional Application indicating the lack of drawings precluded the grant of

a filing date, the USPTO should have accorded the application papers a filing date of October 22, 2003, and sent a Notice of Omitted Items. Accordingly, the Notice mailed March 8, 2004 was mailed in error and is vacated.

Since it appears that the Office committed the error, the petition fee of \$130 is unnecessary. Petitioner may request a refund of the \$130 petition fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany such a request.

This application file is being forwarded to the Office of Initial Patent Examination Division for further **processing with a filing date of October 22, 2003, with an indication that 6 sheets of drawings were present on filing and using the drawings supplied on April 19, 2004.**

Telephone inquiries concerning this matter may be directed to Marianne Jenkins at (703) 306-3475.

A handwritten signature in black ink, appearing to read "Brian Hearn", with a stylized flourish at the end.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy